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## Before the FEDERAL COMMUNICATIONS COMMUNICATIONS Washington, DC 20554

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In the Matter of	State of The Color
Access Charge Reform	) CC Docket No. 96-262
Price Cap Performance Review for Local	)
Exchange Carriers	) CC Docket No. 94-1
Low Volume Long Distance Users	) CC Docket No. 99-249
Federal State Joint Board On Universal Service	) CC Docket No. 96-45

## COMMENTS ON MODIFIED PROPOSAL OF THE COALITION FOR AFFORDABLE LOCAL AND LONG DISTANCE SERVICES

Operator Communications, Inc. d/b/a Oncor Communications, Inc. ("OCI"), by its attorneys, hereby submits its comments on the modified proposal of the Coalition for Affordable Local and Long Distance Services ("CALLS").

In July 1999, CALLS – a coalition comprised of several major incumbent local exchange carriers and interexchange carriers – filed with the Commission a proposal to reform access charge pricing and universal service support. In general terms, the CALLS plan, as originally proposed, included an explicit and portable universal service support mechanism, consolidation and ostensible simplification of the manner in which loop costs are recovered, and reductions in usage-based switched access charges. OCI is an interexchange carrier which serves primarily a discrete market niche – 0+ calling from public telephones. In evaluating the CALLS proposal, OCI focused its attention on how the plan, if implemented, would impact the pay telephone

<sup>&</sup>lt;sup>1</sup> Members of the CALLS coalition include AT&T, Bell Atlantic, BellSouth, GTE, Sprint and SBC.

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segment of the interexchange market. OCI concluded that the CALLS proposal could achieve the public interest benefits touted by its proponents and could alleviate a longstanding inequity in the treatment of pay telephone services with one relatively minor clarification.

Specifically, OCI submitted comments on the CALLS proposal in which it expressed its conditional support for the plan. Its support was conditioned on the Commission using the opportunity presented by the CALLS proposal to clarify that pay telephone access lines should be treated as single line business lines rather than multiline business lines for purposes of the Presubscribed Interexchange Carrier Charge (PICC).<sup>2</sup> Since the advent of PICC charges in 1998, most incumbent local exchange carriers have taken the liberty of treating all pay telephone access lines as multiline business lines for PICC purposes, notwithstanding the absence of any language contained in any Commission order or any rule which justifies that treatment. As a result, PICC charges at the multiline business line rate have been assessed on the presubscribed 0+ carriers.<sup>3</sup>

Questions of PICC charge levels and applicability for pay telephone access lines have been before the Commission since 1998.<sup>4</sup> To date, the Commission has not acted on those issues and incumbent LECs continue to assess PICC charges on 0+ carriers serving pay telephones at the multiline business line PICC rate. The original CALLS proposal would combine the Subscriber Line Charge and PICC for residential lines and single line business lines. The combined charge would be assessed on the end user directly. If the Commission were to use the

<sup>&</sup>lt;sup>2</sup> Comments of Oncor Communications, Inc. on Notice of Proposed Rulemaking and Request for Clarification, filed November 12, 1999.

<sup>&</sup>lt;sup>3</sup> The multiline business line PICC rate is as high as \$4.31 per month.

<sup>&</sup>lt;sup>4</sup> See Public Notice - Commission Seeks Comment of Specific Questions Related to Assessment of Presubscribed Interexchange Carrier Charges on Public Payphone Lines, 13 FCC Rcd 9333 (1998).

CALLS proposal proceeding to clarify that pay telephone access lines are to be treated as single line business lines for PICC purposes, the anomalies and adverse consequences noted by OCI and others in this proceeding would be alleviated. Moreover, as noted by OCI, the financial impact of that recommendation on incumbent LECs would be *de minimis*. With the important clarification sought by OCI, the inequity noted by OCI and others in comments on the May 1998 public notice would be eliminated. No longer would interexchange carriers serving pay telephones on a 0+ basis be required to pay monthly PICC charges as high as \$4.31 per month irrespective of whether those pay telephones generated any 0+ interstate calls, let alone enough calls to generate revenues sufficient to cover the monthly PICC. Instead, as with residential and other single line business lines, the portion of loop costs heretofore recovered through PICC would be recovered from the cost causative payphone line subscribers.

Although OCI addressed this issue extensively in its initial comments, not one commenting party objected to OCI's proposed condition or even questioned it. Thus, when OCI learned that the CALLS coalition was planning to submit a revised proposal responsive to concerns articulated by commenting parties, OCI was hopeful that the revised proposal would address the pay telephone PICC question. Unfortunately, that is not the case.

On March 8, 2000, CALLS submitted to the Commission a revised version of its proposal along with a memorandum in support of the revised plan.<sup>6</sup> Among the features of the modified

<sup>&</sup>lt;sup>5</sup> One Call Communications d/b/a Opticom also submitted comments supporting the CALLS proposal conditioned on clarification that payphone access lines would be treated as single line business lines for PICC purposes.

<sup>&</sup>lt;sup>6</sup> By public notice issued March 8, the Commission invited comment on the revised plan. <u>See Public Notice</u> - <u>Coalition for Affordable Local and Long Distance Services (CALLS) Modified Proposal CC Docket No. 96-262, CC Docket No. 94-1, CC Docket No. 99-249, CC Docket No. 96-45, Pleading Cycle Established, DA 00-533.</u>

CALLS proposal is a reduction in the combined SLC/PICC to be assessed on residential and single line business lines. According to CALLS, "most consumers" will see their combined SLC and PICC pass through charges fall.<sup>7</sup> CALLS also states that it has modified its plan to respond to issues raised by commenters and Commission staff in this proceeding.<sup>8</sup>

While many consumers may experience reductions in combined SLC and PICC pass through charges, consumers of pay telephone services will not benefit from the CALLS proposals. So long as LECs persist it assessing PICC charges at the multiline business line rate on 0+ carriers from pay telephones, those carriers either will have to absorb those charges or seek to recover them from consumers. Unlike a presubscribed 1+ carrier serving a residential or business phone, a carrier providing 0+ service from pay telephones has no practical ability to impose a monthly PICC pass through charge on end users. By definition, end users of services from pay phones are "casual callers," that is, they have no pre-existing relationship with the carrier serving the pay phone on a 0+ basis. In its reply comments on the initial CALLS proposal, OCI explained that even after implementing tariff revisions to eliminate non-revenue producing pay telephone locations from its subscriber base, it would still need to impose a charge of \$4.32 per completed interstate call merely to recover PICC charges assessed on it at current multiline business line PICC levels.<sup>9</sup>

<sup>&</sup>lt;sup>7</sup> Memorandum in Support of the Revised Plan of the Coalition for Affordable Local and Long Distance Service, at 3 (CALLS Revised Plan Memorandum).

<sup>&</sup>lt;sup>8</sup> *Id*.

<sup>&</sup>lt;sup>9</sup> Reply Comments of Oncor Communications, Inc., filed December 3, 1999, at 4.

Stated simply, the CALLS coalition's rhetoric about consumer benefits, rate reductions and benefits for companies investing to compete in telecommunications, <sup>10</sup> rings hollow for that segment of the industry which provides service from payphones and for consumers of those services. Indeed, those carriers and their customers will be left behind if the CALLS proposal is implemented without the important clarifying conditions recommended by OCI and by Opticom. Whether or not CALLS considered the stated concerns of some commenters, it certainly did not respond to the stated concerns of all commenters. <sup>11</sup>

Further, OCI's concern that the CALLS proposal, absent the clarification sought by OCI, will not benefit consumers of public telecommunications services (*i.e.*, calling services from pay telephones) has been exacerbated by a March 29, 2000 ex parte submission filed by members of the CALLS coalition.<sup>12</sup> That letter makes certain commitments intended to respond to concerns about the revised proposal which had been articulated by various consumer groups. While the March 29 letter commits the ILEC members of the CALLS coalition participating in a proceeding to address possible consolidation of universal service charges into a unified percentage of consumer bills, and to refraining from imposing universal service charges on Lifeline customers, the CALLS coalition remains silent – as it has throughout this proceeding – on the adverse consumer impacts which the plan will have on prices for payphone calling services unless the treatment of payphone access lines for PICC purposes is addressed. The

<sup>&</sup>lt;sup>10</sup> CALLS Revised Plan Memorandum, at 3.

<sup>&</sup>lt;sup>11</sup> Prior to the filing of the revised CALLS proposal, counsel for OCI attempted to contact the CALLS coalition's counsel to elicit whether CALLS planned to address the pay phone PICC issue in the revised proposal. Its efforts to contact counsel were unsuccessful.

<sup>&</sup>lt;sup>12</sup> <u>See</u> Letter to Magalie Roman Salas, Secretary, from Kathleen M. H. Wallman, Strategic Consulting, LLC, filed March 29, 2000.

potential to further increase prices for payphone calling may actually become heightened under the proposal. As noted in the March 29, 2000 letter, the revised plan calls for further increases in the multiline business line PICC to offset reductions in Subscriber Line Charges.<sup>13</sup> The specter of increased PICC rate levels for multiline business lines makes it all the more imperative that any Commission approval of a proposal like the CALLS proposal be conditioned on a requirement that 0+ providers of services from public payphones not be subject to PICC charges at the multiline business line rate. Inevitably, such added costs on providers of service from payphones will drive the price of payphone calling beyond the reach of many consumers, including lower income consumers who often are most reliant on public telephones for much of their communications needs. With the advent of wireless services available and used by many middle and upper income consumers, today payphone calling service is of primary importance to those consumers who do not use wireless services and who often do not have their own residential service. Those consumers too should enjoy the pricing benefits which will follow access reform like that contemplated by the CALLS proposal. Unfortunately, unless the CALLS proposal is implemented in a manner which includes payphone calling services within the plan, those consumers will be left outside of the resulting reform in consumer prices for telecommunications services.

In comments filed earlier in this proceeding, OCI indicated that the CALLS proposal, if appropriately conditioned to clarify that pay telephone access lines are to be treated as single line business lines, could achieve the consumer and other public interest benefits articulated by the

<sup>&</sup>lt;sup>13</sup> See CALLS Revised Plan Memorandum, supra, at n. 8 and Section 2.1.2.2.3 of the Revised Plan.

CALLS coalition. Despite the failure of the CALLS coalition to respond to that concern in its revised plan, OCI continues to believe that such a clarification would be appropriate.

Accordingly, OCI reiterates its previously-stated view that the Commission should condition any approval of the CALLS proposal on a requirement that pay telephone access lines be classified as single line business lines under the proposal and that the PICC charge heretofore imposed on pay telephone lines be combined with the SLC and assessed directly upon location providers.<sup>14</sup>

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April 3, 2000

<sup>&</sup>lt;sup>14</sup> The simple change proposed by OCI could be codified at Section 69.153 of the Commission's Rules (47 C.F.R.§ 69.153). OCI suggests insertion of a subsection (c) to the revised version of that rule appended to CALLS' revised proposal. Subsection 3 would state as follows:

<sup>(</sup>c) For purposes of this rule, access lines associated with public telephones shall be considered to be single line business lines.

## **CERTIFICATE OF SERVICE**

I, Melodie Kate, a secretary in the law firm of Greenberg Traurig, certify that on the 3<sup>rd</sup> day of April, 2000, I have caused to be served by hand delivery, a true copy of the foregoing Comments on Modified Proposal of the Coalition for Affordable Local and Long Distance Services to the following:

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